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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/663,701	09/17/2003	Sung Uk Moon	242937US90	3971

22850 7590 07/05/2006

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EXAMINER

WENDELL, ANDREW

ART UNIT PAPER NUMBER

2618

DATE MAILED: 07/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/663,701	<b>Applicant(s)</b> MOON ET AL.	
	<b>Examiner</b> Andrew Wendell	<b>Art Unit</b> 2618	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☐ Responsive to communication(s) filed on 20 June 2006.
- 2a) ☐ This action is FINAL.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☒ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Priority***

1. Should applicant desire to obtain the benefit of foreign priority under 35 U.S.C. 119(a)-(d) prior to declaration of an interference, a translation of the foreign application should be submitted under 37 CFR 1.55 in reply to this action.

### ***Drawings***

2. Figures 1 and 2 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Double Patenting***

3. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

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A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

4. Claim 3 is rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 2 of U.S. Patent Application No.

2004/0058696. Although the conflicting claims are not identical, they are not patentably distinct from each other because US Patent Application No. 2004/0058696 fails to teach a response signal holder.

Regarding claim 3, US Patent Application No. 2004/0058696 teaches a mobile station supporting multicast communication, the base station comprising a response signal creator configured to create a response signal to a control signal for a multicast group; and a response signal transmitter configured to transmit the response signal after holding the response signal for the predetermined duration (See claim 2). US Patent Application No. 2004/0058696 fails to teach a response signal holder.

Lo et al. apparatus for multicast messaging teaches a response signal holder configured to hold the response signal for a predetermined duration (Col. 9 lines 9-12);

Therefore, it would have been obvious at the time of the invention to one of ordinary skill in the art at the time the invention was made to incorporate a response signal holder as taught by Lo et al. into US Patent Application No. 2004/0058696 in order to minimize the consumption of valuable channel resources (Col. 2 lines 15-19).

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5. Claims 4 and 5 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 3-5 of U.S. Patent Application No. 2004/0058696. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claims in the application are broader than the ones in the U.S. Patent Application No. 2004/0058696. Therefore, the claims read on the application.

Regarding claim 4, U.S. Patent Application No. 2004/0058696 teaches a radio network controller supporting multicast communication, wherein the radio network controller performs a predetermined processing on a predetermined number of response signals, the predetermined number of response signals being transmitted from at least one first mobile station and responding to a control signal for a multicast group; and the radio network controller performs processing on only the predetermined number of response signals, and any following response signal is unprocessed by the radio network controller, the following response signals being transmitted from at least one second mobile station (See claims 3 and 4).

Regarding claim 5, claim 5 reads on claim 5 of U.S. Patent Application No. 2004/0058696.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

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invention was made to a person having ordinary skill in the art to which said subject matter pertains.

Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-2 and 4-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bechmann et al. (US Pat App# 2003/0022683) in view of Jellema et al. (US Pat# 6,707,900).

Regarding claim 1, Beckmann et al. transmitting multicast messages in a radio system, and correspondingly designed radio system transmitter and receiver teaches a base station supporting multicast communication, the base station comprising a response signal relay configured to transfer response signals transmitted from a plurality of mobile stations to a radio network controller, the response signals responding to a control signal for a multicast group (Sections 0005-0013 and 0026-0030). Beckmann et al. fails to teach a predetermined number of response signals.

Jellema et al. dynamic load limiting teaches wherein the response signal relay transfers only a predetermined number of response signals to the radio network controller, and any following response signal is retained (Fig. 2 and Col. 2 lines 60-67).

Therefore, it would have been obvious at the time of the invention to one of ordinary skill in the art at the time the invention was made to incorporate a predetermined number of response signals as taught by Jellema et al. into Beckmann et al. multicast system in order to avoid overloaded conditions and have a more efficient system (Col. 1 lines 22-30).

Regarding claim 2, the combination including Jellema et al. teaches wherein the predetermined number is one 26 (Fig. 2, the value could be set to one or any number).

Regarding claim 4, Beckmann et al. teaches a radio network controller supporting multicast communication, wherein the radio network controller performs a predetermined processing on a predetermined number of response signals, the predetermined number of response signals being transmitted from at least one first mobile station and responding to a control signal for a multicast group (Sections 0005-0013 and 0026-0030). Beckmann et al. fails to teach a predetermined number of response signals.

Jellema et al. teaches the radio network controller performs processing on only the predetermined number of response signals, and any following response signal is unprocessed by the radio network controller, the following response signals being transmitted from at least one second station (Fig. 2 and Col. 2 lines 60-67).

Regarding claim 5, the combination including Jellema et al. teaches wherein the predetermined number is one 26 (Fig. 2, the value could be set to one or any number).

8. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Beckmann et al. (US Pat Appl# 2003/0022683) in view of Lo et al. (US Pat# 6,122,483).

Regarding claim 3, Beckmann et al. transmitting multicast messages in a radio system, and correspondingly designed radio system transmitter and receiver teaches a mobile station supporting multicast communication, the base station comprising a response signal creator configured to create a response signal to a control signal for a multicast group; and a response signal transmitter configured to transmit the response signal after holding the response signal for the predetermined duration (Sections 0005-0013 and 0026-0030). Beckmann et al. fails to teach a response signal holder.

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Lo et al. apparatus for multicast messaging teaches a response signal holder configured to hold the response signal for a predetermined duration (Col. 9 lines 9-12);

Therefore, it would have been obvious at the time of the invention to one of ordinary skill in the art at the time the invention was made to incorporate a response signal holder as taught by Lo et al. into Beckmann et al. multicast system in order to minimize the consumption of valuable channel resources (Col. 2 lines 15-19).

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew Wendell whose telephone number is 571-272-0557. The examiner can normally be reached on 7:30-5 M-F.

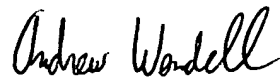
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nay Maung can be reached on 571-272-7882. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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Andrew Wendell  
Examiner  
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